

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the fatal accident at the San Francisco Municipal Transportation Agency's Mission Rock Station in the City and County of San Francisco, on December 1, 2012.

Investigation 13-09-012
(Filed September 19, 2013)

ORDER EXTENDING STATUTORY DEADLINE**Summary**

This decision extends the statutory deadline in this proceeding to November 13, 2015.

1. Background

Public Utilities Code Section 1701.2(e) provides that adjudicatory cases shall be resolved within 12 months of the date that they are initiated unless the Commission makes findings as to why that deadline cannot be met and issues an order extending that deadline. This matter has been categorized as adjudicatory and the statutory deadline for its resolution is September 14, 2014.

On September 19, 2013, the Commission instituted a formal Order Instituting investigation into the San Francisco Municipal Transportation Agency (SFMTA or Muni). The issue is whether the SFMTA, after being served with a subpoena *duces tecum* from the Commission's Safety and Enforcement Division (SED), Rail Transit Safety Section, violated state and federal law when it failed to produce the personnel records of a Muni employee who operated a Muni Light

Rail Train on December 1, 2012, that allegedly struck and killed a pedestrian at or near the Mission Rock station on Third Street in San Francisco, California.

The evidentiary hearing in this matter was held on June 26, 2014.

Post-hearing opening briefs were filed on July 17, 2014. Post-hearing reply briefs were filed on July 24, 2014.

On August 11, 2014, SED filed a Motion to reopen the record to permit the introduction of recently received records from the SFMTA (the records were received after the June 26, 2014 evidentiary hearing) concerning its train operator involved in the accident which is the subject of the above-entitled proceeding.

The motion was granted and the parties were given additional time to brief the impact, if any, of the recently received records on the outcome of this proceeding.

The Presiding Officer's Decision (POD) was served on February 13, 2015. On March 16, 2015, SFMTA filed an appeal and SED filed a response to the appeal on March 30, 2015.

The Modified POD was placed on the August 13, 2015 Commission's Agenda as Item 36 and subsequently held to August 27, 2015 Commission Meeting. Therefore, the statutory deadline for resolving this matter should be extended to November 13, 2015, to allow the Commission time to deliberate on the Modified POD and issue its final decision.

2. Waiver of Comment Period

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of proposed decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, the otherwise applicable period for public review is being waived.

3. Assignment of Proceeding

Michael Picker is the assigned Commissioner and Robert M. Mason III is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The Commission instituted this investigation on September 19, 2013.
2. An evidentiary hearing was held on June 26, 2014.
3. Post-hearing opening and reply briefs were filed on July 17, 2014 and July 24, 2014, respectively.
4. On August 11, 2014, SED filed a Motion to reopen the record to permit the introduction of recently received records from the SFMTA concerning its train operator involved in the accident which is the subject of this proceeding. The motion was granted and the parties were given an opportunity to brief the impact, if any, of the recently received records on this proceeding.
5. Decision 15-03-009 extended the statutory deadline to September 14, 2015.
6. On February 13, 2015, the POD was served on the parties.
7. On March 16, 2015, SFMTA filed an appeal and SED filed a response to the appeal on March 30, 2015.
8. The Modified POD was placed on the August 13, 2015 Commission's Agenda as Item 36 and subsequently held to August 27, 2015 Commission Meeting.
9. An extension of the statutory deadline is necessary to allow the Commission enough time to deliberate on the Modified POD and to issue its final decision.

Conclusions of Law

1. The statutory deadline imposed by Public Utilities Code Section 1701.2(e) should be extended until November 13, 2015.

2. This order should be effective immediately.

IT IS ORDERED that the statutory deadline in this proceeding is extended to November 13, 2015.

This order is effective today.

Dated _____, at San Francisco, California.